



General Assembly

January Session, 2011

Substitute Bill No. 415

* SB00415PD 050911 *

AN ACT CONCERNING STATE OVERSIGHT OVER HOOKAH LOUNGES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-342 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) As used in this section, "smoke" or "smoking" means the lighting
4 or carrying of a lighted cigarette, cigar, pipe, water pipe, hookah or
5 similar device.

6 (b) (1) Notwithstanding the provisions of section 31-40q, as
7 amended by this act, no person shall smoke: (A) In any building or
8 portion of a building owned and operated or leased and operated by
9 the state or any political subdivision thereof; (B) in any area of a health
10 care institution; (C) in any area of a retail food store; (D) in any
11 restaurant; (E) in any area of an establishment with a permit issued for
12 the sale of alcoholic liquor pursuant to section 30-20a, 30-21, 30-21b, 30-
13 22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f,
14 in any area of an establishment with a permit for the sale of alcoholic
15 liquor pursuant to section 30-23 issued after May 1, 2003, and, on and
16 after April 1, 2004, in any area of an establishment with a permit issued
17 for the sale of alcoholic liquor pursuant to section 30-22a or 30-26 or
18 the bar area of a bowling establishment holding a permit pursuant to
19 subsection (a) of section 30-37c; (F) within a school building while
20 school is in session or student activities are being conducted; (G) in any

21 passenger elevator, provided no person shall be arrested for violating
22 this subsection unless there is posted in such elevator a sign which
23 indicates that smoking is prohibited by state law; (H) in any dormitory
24 in any public or private institution of higher education; [or] (I) on and
25 after April 1, 2004, in any area of a dog race track or a facility equipped
26 with screens for the simulcasting of off-track betting race programs or
27 jai alai games; or (J) in any hookah lounge. For purposes of this
28 subsection, "restaurant" means space, in a suitable and permanent
29 building, kept, used, maintained, advertised and held out to the public
30 to be a place where meals are regularly served to the public, and
31 "hookah lounge" means space, in a suitable and permanent building,
32 kept, used, maintained, advertised and held out to the public to be a
33 place where hookahs or water pipes are regularly made available for
34 use by the public.

35 (2) This section shall not apply to (A) correctional facilities; (B)
36 designated smoking areas in psychiatric facilities; (C) public housing
37 projects, as defined in subsection (b) of section 21a-278a; (D)
38 classrooms where demonstration smoking is taking place as part of a
39 medical or scientific experiment or lesson; (E) smoking rooms
40 provided by employers for employees, pursuant to section 31-40q, as
41 amended by this act; (F) notwithstanding the provisions of
42 subparagraph (E) of subdivision (1) of this subsection, the outdoor
43 portion of the premises of any permittee listed in subparagraph (E) of
44 subdivision (1) of this subsection, provided, in the case of any seating
45 area maintained for the service of food, at least seventy-five per cent of
46 the outdoor seating capacity is an area in which smoking is prohibited
47 and which is clearly designated with written signage as a nonsmoking
48 area, except that any temporary seating area established for special
49 events and not used on a regular basis shall not be subject to the
50 smoking prohibition or signage requirements of this subparagraph;
51 [or] (G) any tobacco bar, provided no tobacco bar shall expand in size
52 or change its location from its size or location as of December 31, 2002;
53 or (H) any hookah lounge operating before December 31, 2010,
54 provided such hookah lounge (i) may not expand in size or change its

55 location from its size or location as of December 31, 2010, and (ii) shall
56 comply with regulations established by the Commissioner of Public
57 Health pursuant to subdivision (3) of this subsection. For purposes of
58 this subdivision, "outdoor" means an area which has no roof or other
59 ceiling enclosure, "tobacco bar" means an establishment with a permit
60 for the sale of alcoholic liquor to consumers issued pursuant to chapter
61 545 that, in the calendar year ending December 31, 2002, generated ten
62 per cent or more of its total annual gross income from the on-site sale
63 of tobacco products and the rental of on-site humidors, [and] "tobacco
64 product" means any substance that contains tobacco, including, but not
65 limited to, cigarettes, cigars, pipe tobacco or chewing tobacco, and
66 "operating" means leasing, renting or owning space, in a suitable and
67 permanent building, that is open pursuant to a valid certificate of
68 occupancy, used, maintained, advertised and held out to the public as
69 a place where hookahs or water pipes are regularly made available for
70 use by the public.

71 (3) Not later than July 1, 2013, the Commissioner of Public Health
72 shall adopt regulations, in accordance with chapter 54, for the
73 operation of hookah lounges in order to protect the health and safety
74 of hookah lounge patrons.

75 (c) The operator of a hotel, motel or similar lodging may allow
76 guests to smoke in not more than twenty-five per cent of the rooms
77 offered as accommodations to guests.

78 (d) In each room, elevator, area or building in which smoking is
79 prohibited by this section, the person in control of the premises shall
80 post or cause to be posted in a conspicuous place signs stating that
81 smoking is prohibited by state law. Such signs, except in elevators,
82 restaurants, establishments with permits to sell alcoholic liquor to
83 consumers issued pursuant to chapter 545, hotels, motels or similar
84 lodgings, and health care institutions, shall have letters at least four
85 inches high with the principal strokes of letters not less than one-half
86 inch wide.

87 (e) Any person found guilty of smoking in violation of this section,
88 failure to post signs as required by this section or the unauthorized
89 removal of such signs shall have committed an infraction.

90 (f) Nothing in this section shall be construed to require any smoking
91 area in any building.

92 (g) The provisions of this section shall supersede and preempt the
93 provisions of any municipal law or ordinance relative to smoking
94 effective prior to, on or after October 1, 1993.

95 Sec. 2. Subsection (a) of section 31-40q of the general statutes is
96 repealed and the following is substituted in lieu thereof (*Effective from*
97 *passage*):

98 (a) As used in this section:

99 (1) "Person" means one or more individuals, partnerships,
100 associations, corporations, limited liability companies, business trusts,
101 legal representatives or any organized group of persons.

102 (2) "Employer" means a person engaged in business who has
103 employees, including the state and any political subdivision thereof.

104 (3) "Employee" means any person engaged in service to an employer
105 in the business of his employer.

106 (4) "Business facility" means a structurally enclosed location or
107 portion thereof at which employees perform services for their
108 employer. The term "business facility" does not include: (A) Facilities
109 listed in subparagraph (A), (C), [or] (G) or (H) of subdivision (2) of
110 subsection (b) of section 19a-342, as amended by this act; (B) any
111 establishment with a permit for the sale of alcoholic liquor pursuant to
112 section 30-23 issued on or before May 1, 2003; or (C) for any business
113 that is engaged in the testing or development of tobacco or tobacco
114 products, the areas of such business designated for such testing or
115 development; [; or (D) during the period from October 1, 2003, to April
116 1, 2004, establishments with a permit issued for the sale of alcoholic

117 liquor pursuant to section 30-22a or 30-26 or the bar area of a bowling
118 establishment holding a permit pursuant to subsection (a) of section
119 30-37c.]

120 (5) "Smoking" means the burning of a lighted cigar, cigarette, pipe
121 or any other matter or substance which contains tobacco.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-342
Sec. 2	<i>from passage</i>	31-40q(a)

PH *Joint Favorable Subst.-LCO*

PD *Joint Favorable*